



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,199	03/14/2001	Masaki Wakabayashi	1248-0537P-SP	1722

2292 7590 07/01/2005

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

VITAL, PIERRE M

ART UNIT	PAPER NUMBER
----------	--------------

2188

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,199

Applicant(s)

WAKABAYASHI ET AL.

Examiner

Pierre M. Vital

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

AD

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 27, 2005 has been entered.

Response to Amendment

2. This Office Action is in response to applicant's communication filed April 27, 2005 in response to PTO Office Action mailed October 29, 2004. The Applicant's remarks and amendments to the claims and/or the specification were considered with the results that follow.

3. In response to the last Office Action, claims 1-8 and 17-22 have been amended. No claims have been canceled. No claims have been added. As a result, claims 1-22 remain pending in this application.

Response to Arguments

4. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

As to the Remarks, Applicant asserted that:

(a) Rabeler and Bandoos taken singly or in combination do not toggle "a flag indicating that a predetermined address space is being accessed".

Examiner respectfully traverses applicant's arguments for the following reasons. Bandoos discloses registers storing boundary addresses, which are protect-released when an application program is executed (see col. 2, lines 14-42). Thus, Bandoos clearly discloses an indication of a predetermined address space being accessed.

(b) Rabeler and Bandoos taken singly or in combination do not teach or suggest access permission address range setting means for setting, prior to each execution of an application program, an address range within which access by the application program to be executed is permitted.

Examiner respectfully traverses applicant's arguments for the following reasons. Weinlander discloses setting access permission prior to each execution of an application program (see column 2, lines 20-36).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-7, 10-15 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabeler (US 6,594,746) and Badoo (US 3,803,559) and Weinlander (US 5,991,858).

As in claim 2, Rabeler discloses a system comprising:

an access permission address range setting register, operable to set, when said flag is toggled, an address range within which an access is permitted (column 1 line 66 to column 2, line 144 Fig. 3, element 32; column 4, lines 54-65);

a judging means for judging whether or not an access is carried out within the address range set during execution of software (i.e. a user program) (Fig. 3; column 4, lines 47-65); and control means for controlling an access with respect to a memory based on a result of the judging means (Fig. 3., column 4, lines 47-65).

Rabeler does not teach a monitor flag for indicating that a specified address space is being accessed; and an access permission setting register for setting whether or not an access with respect to an address other than the address range should be permitted, that is able to be set while the flag is set, nor does Rabeler teach that the

memory access is controlled based on the content of the access permission setting access register as required by claim 2.

Rabaler also does not teach an interruption request signal generating means for generating an interrupt to a processing unit when accessing an address other than the address range while the access permission register is set so as not to permit access to an address outside the address range, whereupon a predetermined interrupt program is executed as required by claim 4.

Bandoo teaches a system for inhibiting memory access based on an address range, comprising a protect check flip-flop (i.e. access permission setting register) that sets whether or not an access with the respect to an address other than the address range should be permitted, by overriding the result of an address range judging means such that memory access is controlled based on a result of the judging means and the content set by the access permission setting register (Fig. 3; column 3, line 57 to column 4, line 7). Bandoo teaches that by this mechanism, a supervisory program may be allowed to conveniently access all memory areas (Column 4, lines 45-57). Bandoo further teaches indicating that a specified address space is being accessed (Column 2, lines 14-42)

Regarding claim 2, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to incorporate the access permission setting register

mechanism of Bando, in the system of Rabeler, in order to allow convenient access to all memory areas by a supervisory program as taught by Bando.

Further regarding claim 2, because Rabeler teaches that all memory access inhibition registers can only be modified in system mode (i.e. when the monitor flag is set) (Column 2, lines 32-34), it would have been obvious to only allow modification of the access permission setting register while in system mode.

Claim 3 is rejected using the same rationale as for the rejection of claim 2, further noting that Rabeler teaches a system program for setting all registers associated with inhibition of memory access (Column 1, lines 40-43) column 2, lines 32-34), where it is readily apparent that the system program must be executed prior to the user program in order for the security relevant information to be effective, and that the user program executes subsequent to the system Program.

Bando further teaches a generating means for generating an interrupt to the processing system when access to an address other than the permitted address range while the protect check flip-flop (i.e. access permission register) is set so as not to permit access to an address outside the address range, whereupon an interrupt handling routine of the supervisory program is executed (Fig. 4) column 5, lines 13-34).

Bandoo teaches that this may be used to inform an operator of the condition (column 5, line 34).

Regarding claim 4, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant, to use the interrupt mechanism of Bandoo, in the system of Rabeler, in order to notify an operator of an attempted access to an address outside the address range as taught by Bandoo.

Claim 5 is rejected using the same rationale as for the rejection of claim 4 above.

Claim 6 is rejected using the same rationale as for the rejection of claim 4, noting that Bandoo teaches the interrupt handling routine is part of the supervisory program (Column 5, lines 20-24).

Claim 7 is rejected using the same rationale as for the rejection of claim 6 above.

Claims 10-15 are rejected using the same rationale as for the rejection of claims 2-7 respectively, where it is noted that Rabeler teaches that the memory comprises a rewritable non-volatile memory (column 3, lines 7-19).

Claim 18 is rejected using the same rationale as for the rejection of claim 2 above.

Claim 19 is rejected using the same rationale as for the rejection of claim 3 above.

Claim 20 is rejected using the same rationale as for the rejection of claim 4 above.

Claim 21 is rejected using the same rationale as for the rejection of claim 6 above.

7. Claims 1, 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabeler (US 6,594,746) and Badoo (US 3,803,559) and Weinlander (US 5,991,858).

Claim 1 is rejected using the same rationale as for the rejection of claim 2 above. However, Rabeler and Badoo does not teach "access permission address range setting means for setting, prior to each execution of an application program, an address range within which access by the application program to be executed is permitted" as recited in the claim.

Weinlander discloses setting access permission prior to each execution of an application program (see column 2, lines 20-36).

Regarding claim 1, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant, to set access permission prior to each execution of an application program, in the system of Rabeler and Badoo, in order to prevent unauthorized reading or writing interventions by an application program code and safeguard the data protection of the users among one another (col. 4, lines 21-29) as taught by Weinlander.

Claim 9 is rejected using the same rationale as for the rejection of claim 1, where it is noted that Rabeler teaches that the memory comprises a rewritable non-volatile memory (column 3, lines 7-19).

Claim 17 is rejected using the same rationale as for the rejection of claim 1 above.

8. Claims 8, 16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabeler (US 6,594,746) in view of Badoo (US 3,803,559) as applied to claims 3 and 19 above, and further in view of Oppenheimer (David L. Oppenheimer et al, "Performance Signatures: A Mechanism for Intrusion Detection", 1997 Information Survivability Workshop - ISW'97).

Rabaler and Badoo are relied upon for the teachings relative to claims 3 and 19 as above.

The combination of Rabaler and Badoo does not teach a re-execution forbidding means for storing information indicating that an access is carried out beyond an access limit, wherein the control means controls the memory based on the information so that access is not carried out again beyond the access limit as required by claim 8.

Oppenheimer teaches a general principle for survivability in a computer system subject to anomalous program behavior, where software components that are misbehaving are quarantined (i.e. prevented from re-executing) (Introduction, paragraph 1, lines 1-3). Oppenheimer defines one kind of anomalous behavior as a memory usage being outside a normal range (Section 1, paragraph 2, lines 1-9; Section 2. 1, lines 1-11).

Although Oppenheimer teaches anomalous program behavior in the context of a hostile attack, to one skilled in the art Oppenheimer's teachings would suggest general principles applicable to any anomalous program behavior. Furthermore, it is readily apparent in Oppenheimer that an indication of anomalous behavior must be stored in order for the system to make reference to the condition during analysis of the anomalous behavior (Section 2.2).

Regarding claim 8, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to prevent a program from re-executing (i.e. quarantine) based on information stored indicating anomalous memory usage as taught by Oppenheimer, in the system made obvious by the combination of Rabeler and Badoo, where the anomalous behavior is an access beyond an access limit, in order to ensure survivability of the computer system against misbehaving software as taught by Oppenheimer.

Claim 16 is rejected using the same rationale as for the rejection of claim 11 above.

Claim 22 is rejected using the same rationale as for the rejection of claim 8 above.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach setting access permission prior to each execution of an application program.

10. The examiner requests, in response to this Office action, any reference(s) known

to qualify as prior art under 35 U.S.C. sections 102 or 103 with respect to the invention as defined by the independent and dependent claims. That is, any prior art (including any products for sale) similar to the claimed invention that could reasonably be used in a 102 or 103 rejection. This request does not require applicant to perform a search. This request is not intended to interfere with or go beyond that **required** under 37 C.F.R. 1.56 or 1.105.

The request may be fulfilled by asking the attorney(s) of record handling prosecution and the inventors)/assignee for references qualifying as prior art. A simple statement that the query has been made and no prior art found is sufficient to fulfill the request. Otherwise, the fee and certification requirements of 37 CFR section 1.97 are waived for those documents submitted in reply to this request. This waiver extends only to those documents within the scope of this request that are included in the application's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this request and any information disclosures beyond the scope of this are subject to the fee and certification requirements of 37 CFR section 1.97.

In the event prior art documentation is submitted, a discussion of relevant passages, figs., etc., with respect to the claims is requested. The examiner is looking for specific references to 102/103 prior art that identify independent and dependent claim limitations. Since applicant is most knowledgeable of the present invention and submitted art, his/her discussion of the reference(s) with respect to the instant claims is essential. **A response to this inquiry is greatly appreciated.**

11. The examiner also requests, in response to this Office action, support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application.

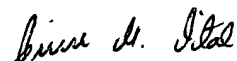
12. When responding to this office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre M. Vital whose telephone number is (571) 272-4215. The examiner can normally be reached on 8:30 am - 6:00 pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (571) 272-4210. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 28, 2005



Pierre M. Vital
Primary Examiner
Art Unit 2188